

IN THE SUPERIOR COURT OF CARROLL COUNTY

STATE OF GEORGIA

RITA MEEKS, Individually and as Administratrix)
of the Estate of ALAN HEMBREE,)

Plaintiffs,)

v.)

EULUS HOLBERT KEOWN, JR.,)
ROBERT LYNN NEWCOMB, CELADON)
TRUCKING SERVICES, INC., and WABASH)
NATIONAL CORPORATION,)

Defendants.)

CIVIL ACTION

FILE NO. 15CV01044

DEFENSES AND ANSWER

COMES NOW, Defendant EULUS HOLBERT KEOWN, JR., appearing specially without submitting to the jurisdiction and venue of this Court, and files this his Defenses and Answer to Plaintiffs' Complaint for Damages, and shows the Court as follows:

FIRST DEFENSE

Plaintiffs' Complaint fails to state a claim against this Defendant upon which relief can be granted.

SECOND DEFENSE

Jurisdiction is improper as to this Defendant.

THIRD DEFENSE

Venue is improper as to this Defendant.

FOURTH DEFENSE

There has been an insufficiency of process and an insufficiency of service of process as regards the Plaintiffs' Complaint and Summons upon this Defendant.

KOWNEY & CLEVELAND, LLP
Attorneys at Law
268 Washington Avenue
Marietta, Georgia 30060
(770) 422-9233

EXHIBIT

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FIFTH DEFENSE

This action is barred by the statute of limitations.

SIXTH DEFENSE

Plaintiffs' claims against this Defendant are barred by the doctrine of laches.

SEVENTH DEFENSE

Plaintiffs' claims as to this Defendant are barred due to the intervening negligent act or acts of a separate party or parties.

EIGHTH DEFENSE

Plaintiffs have failed to serve the real party in interest.

NINTH DEFENSE

Plaintiffs' Complaint is barred for failure to pay all applicable costs in the original action, as required and pursuant to O.C.G.A. § 9-11-41(d).

TENTH DEFENSE

Because Plaintiffs never perfected service on Defendant Keown in the original action, the original action was void and is incapable of renewal, pursuant to O.C.G.A. § 9-2-61(a).

ELEVENTH DEFENSE

ANSWER

Defendant responds to the allegations of Plaintiffs' Complaint as follows:

1.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 1 of Plaintiffs' Complaint.

2.

Defendant admits that he is a resident of the state of Georgia, but denies the remaining averments contained in paragraph 2 of Plaintiffs' Complaint.

3.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 3 of Plaintiffs' Complaint.

4.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 4 of Plaintiffs' Complaint.

5.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 5 of Plaintiffs' Complaint.

6.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 6 of Plaintiffs' Complaint.

7.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 7 of Plaintiffs' Complaint.

8.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 8 of Plaintiffs' Complaint.

9.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 9 of Plaintiffs' Complaint.

10.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 10 of Plaintiffs' Complaint.

11.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 11 of Plaintiffs' Complaint.

12.

Defendant denies that he is a joint tortfeasor, but is without knowledge and information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 12 of Plaintiffs' Complaint.

13.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 13 of Plaintiffs' Complaint.

14.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 14 of Plaintiffs' Complaint.

15.

Defendant admits the averments contained in paragraph 15 of Plaintiffs' Complaint.

16.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 16 of Plaintiffs' Complaint.

17.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 17 of Plaintiffs' Complaint.

18.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 18 of Plaintiffs' Complaint.

19.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 19 of Plaintiffs' Complaint.

20.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 20 of Plaintiffs' Complaint.

21.

Defendant denies that he created a hazard, but is without knowledge and information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 21 of Plaintiffs' Complaint.

22.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 22 of Plaintiffs' Complaint.

23.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 23 of Plaintiffs' Complaint.

24.

Defendant incorporates by reference his responses to paragraphs 1-23 of Plaintiffs' Complaint as if fully set forth herein below.

25.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 25 of Plaintiffs' Complaint.

26.

Defendant denies the averments contained in paragraph 26 of Plaintiffs' Complaint.

27.

Defendant denies the averments contained in paragraph 27 of Plaintiffs' Complaint.

28.

Defendant incorporates by reference his responses to paragraphs 1-27 of Plaintiffs' Complaint as if fully set forth herein below.

29.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 29 of Plaintiffs' Complaint.

30.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 30 of Plaintiffs' Complaint.

31.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 31 of Plaintiffs' Complaint.

32.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 32 of Plaintiffs' Complaint.

33.

Defendant incorporates by reference his responses to paragraphs 1-32 of Plaintiffs' Complaint as if fully set forth herein below.

34.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 34 of Plaintiffs' Complaint.

35.

Defendant is without knowledge and information sufficient to form a belief as to the truth

of the averments contained in paragraph 35 of Plaintiffs' Complaint.

36.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 36 of Plaintiffs' Complaint.

37.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 37 of Plaintiffs' Complaint.

38.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 38 of Plaintiffs' Complaint.

39.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 39 of Plaintiffs' Complaint.

40.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 40 of Plaintiffs' Complaint.

41.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 41 of Plaintiffs' Complaint.

42.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 42 of Plaintiffs' Complaint.

43.

Defendant incorporates by reference his responses to paragraphs 1-42 of Plaintiffs' Complaint as if fully set forth herein below.

44.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 44 of Plaintiffs' Complaint.

45.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 45 of Plaintiffs' Complaint.

46.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 46 of Plaintiffs' Complaint.

47.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 47 of Plaintiffs' Complaint.

48.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 48 of Plaintiffs' Complaint.

49.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 49 of Plaintiffs' Complaint.

50.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 50 of Plaintiffs' Complaint.

51.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 51 of Plaintiffs' Complaint.

52.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 52 of Plaintiffs' Complaint.

53.

Defendant incorporates by reference his responses to paragraphs 1-52 of Plaintiffs' Complaint as if fully set forth herein below.

54.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 54 of Plaintiffs' Complaint.

55.

Defendant denies the averments contained in paragraph 55 of Plaintiffs' Complaint.

56.

Defendant denies the averments contained in paragraph 56 of Plaintiffs' Complaint.

57.

Defendant denies the averments contained in paragraph 57 of Plaintiffs' Complaint.

58.

Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 58 of Plaintiffs' Complaint.


TWELFTH DEFENSE

Defendant denies each and every averment contained in the paragraph beginning with the word "WHEREFORE" in the Plaintiffs' Complaint. Any allegations or averments contained in Plaintiffs' Complaint not specifically responded to above are hereby denied.

WHEREFORE, Defendant EULUS HOLBERT KEOWN, JR., having fully answered, demands that he be discharged with all costs cast upon the Plaintiffs.

Respectfully submitted,

DOWNEY & CLEVELAND, LLP

By: 
R. CHRISTOPHER HARRISON
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Attorneys for Defendant Keown

CERTIFICATE OF SERVICE

This is to certify that I have this day served the following counsel of record with a true and correct copy of the foregoing pleading by depositing said copy in the United States Mail, with sufficient postage affixed thereon, and properly addressed to the following:

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This 22nd day of October, 2015.

DOWNEY & CLEVELAND, LLP

By: 

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